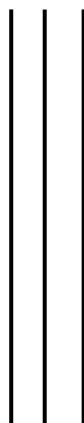




# **Exemption Policy and Procedure Manual, CAAN**

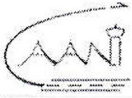


**Civil Aviation Authority of Nepal**

**Aviation Safety and Security Regulation Directorate**

**September 2023**

**(First Edition)**

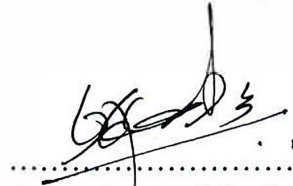


### FOREWORD

This Exemption Policy and Procedure Manual, CAAN, first edition, September 2023 has been issued by the Director General, Civil Aviation Authority of Nepal, using the authority pursuant to Rule 82 of Civil Aviation Regulation, 2058 BS (2002 AD).

This Manual contains the Policy of CAAN regarding granting of exemption and guidelines for the inspectors under different departments/divisions of Aviation Safety & Security Regulation Directorate to process applications for exemptions using consistent and standardized methods. It is not the purpose of the provisions of this manual to be used to avoid or ease the compliances to the provision of Requirements issued by CAAN merely for convenience. It shall be noted that granting exemptions shall be applicable for a specified period of time. Exemptions may be granted subject to specific conditions or restrictions as deemed appropriate by CAAN to ensure an equivalent level of safety.

This is a controlled document and is subject to periodic review. Aviation Safety & Security Regulation Directorate shall maintain this document as complete, accurate and updated as possible. Comments and recommendations for revision/amendment action to this publication should be forwarded to the Deputy Director General of Aviation Safety & Security Regulation Directorate.



Er. Pradeep Adhikari  
Director General  
Civil Aviation Authority of Nepal

First Edition, September 2023

## RECORDS OF AMENDMENTS AND CORRIGENDA

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## TABLE OF CONTENTS

<b>FOREWORD .....</b>	<b>- 1 -</b>
<b>RECORDS OF AMENDMENTS AND CORRIGENDA .....</b>	<b>- 2 -</b>
<b>TABLE OF CONTENTS.....</b>	<b>- 3 -</b>
<b>LIST OF ABBREVIATIONS .....</b>	<b>- 4 -</b>
<b>POLICY FOR GRANTING EXEMPTIONS.....</b>	<b>- 5 -</b>
<b>GENERAL POLICY RELATED TO EXEMPTIONS.....</b>	<b>- 6 -</b>
<b>PROCEDURES FOR GRANTING EXEMPTION .....</b>	<b>- 7 -</b>
1. INTRODUCTION .....	- 7 -
2. PURPOSE.....	- 7 -
3. SAFETY CONSIDERATIONS .....	- 8 -
4. PROCESSES FOR GRANTING EXEMPTIONS .....	- 8 -
5. GRANT/REFUSAL OF AN APPLICATION FOR EXEMPTION .....	- 11 -
6. NOTIFICATION OF EXEMPTION.....	- 11 -
7. PUBLISHING OF THE EXEMPTION .....	- 11 -
8. RECORDING OF EXEMPTION.....	- 11 -
APPENDIX A-FLOW CHART FOR APPROVAL OF EXEMPTIONS.....	- 12 -
APPENDIX B- FORM FOR APPLICATION, EVALUATION AND APPROVAL OF EXEMPTION.....	- 13 -



### LIST OF ABBREVIATIONS

ANSSSD - Air Navigation Services Safety Standards Department

FSSD – Flight Safety Standards Department

ASSD – Aerodrome Safety Standards Department

SMD – Safety Management Department

AMO - Aircraft Maintenance Organization

CAMO - Continuing Airworthiness Management Organization

ATO - Aviation Training Organization

SMI - Safety Management Implementation

CAAN - Civil Aviation Authority of Nepal

SARPs - Standard and Recommended Practices

FOR - Flight Operation Requirements

AOCR - Air Operator Certificate Requirements

NCAR - Nepalese Civil Airworthiness Requirements

PELR - Personnel Licensing Requirements

NFSR - Nepalese Flying School Requirements

DGHR - Dangerous Goods Handling Requirements

CAR 19 - Civil Aviation Requirements for Safety Management

CAR 2 - Civil Aviation Requirements for Rules of the Air

CAR 3 - Civil Aviation Requirements for Meteorological Service for International Air Navigation

CAR 4 - Civil Aviation Requirements for Aeronautical Chart

CAR 5 - Civil Aviation Requirements for Units of Measurement to be used in Air and Ground Operations

CAR - Civil Aviation Requirements for Aeronautical Communications

CAR 11 - Civil Aviation Requirements for Air Traffic Services

CAR 12 - Civil Aviation Requirements for Search and Rescue

CAR 15 - Civil Aviation Requirements for Aeronautical Information Service



## **Civil Aviation Authority of Nepal**

### **POLICY FOR GRANTING EXEMPTIONS**

Civil Aviation Authority of Nepal (CAAN) is responsible for the management of civil aviation safety in Nepal. It is committed to developing strategies, policies and processes to ensure that all aviation activities within Nepal are carried out to the highest level of safety performance, while meeting international standards.

Under Rule 82 (a) of the Civil Aviation Regulation, 2058 (2002) and Rule 35 of CAAN Airport Certificate Regulation, 2061 (2004), the Director General shall have the authority to grant exemptions on the provisions made on requirements enacted under the regulation.

Compliance with the requirements is obligatory. However, on some occasions, there may be instances where full compliance is not feasible. In those instances, exemptions or exceptions may be helpful to the aviation industry until such time where full compliance become practicable. Such measures must be supported by appropriate, robust and documented safety risk assessments and imposition of limitations, conditions or mitigation measures, as appropriate.

In all cases, if the process of exemption is considered appropriate and all the possible risks are duly assessed and mitigated, exemption from a requirement is granted within the specified timeframe.

The Director General may grant exemption on the requirements related to

- a) Aircraft Operations and Certification
- b) Aerodrome Operations and Certification
- c) Air Navigation Services (ANS) Operations and Authorization/Approval
- d) Aircraft Maintenance Organization (AMO) Operations and Certification
- e) Continuing Airworthiness Management Organization (CAMO) Operations and Certification
- f) Aviation Training Organization (ATO) Operations and Authorization
- g) Safety Management Implementation (SMI)
- h) Operations of any related services or facilities, as deemed necessary by the Director General, CAAN



### GENERAL POLICY RELATED TO EXEMPTIONS

While granting exemption, following aspects are considered:

1. Before granting an exemption, the Director General shall consider whether an applicant's proposal provides a level of safety, or risk control, equivalent to that required by the existing requirements;
2. Application for granting an exemption shall be submitted in writing using the prescribed format to the following regulatory domains, as appropriate:
  - Flight Safety Standards Department
  - Aerodrome Safety Standards Department
  - Air Navigation Services Safety Standards Department
  - Air Transport Department
  - Aviation Security Department
  - Safety Management Division
3. Each exemption shall be assessed on its own merits, with reference to the most up-to-date information. Granting of a similar Exemption in the past shall not be the justification for the granting of another Exemption;
4. In an emergency case, the application for granting exemptions shall be processed without delay when supporting evidence(s) has been submitted justifying emergency situation and no other means exist to comply with applicable requirement(s) in such emergency situation;
5. Prior to granting any exemption a technical evaluation shall be performed by authorized inspector(s) of the concerned department(s)/division, on behalf of Director General, to ensure the technical aspects and required conditions of the exemption are met. The technical evaluation team shall consider the following aspects of application:
  - whether the exemption is based on a robust rationale
  - whether the exemption would be in the public interest
  - whether granting the exemption would jeopardize aviation safety
  - whether the exemption would contravene the applicable national and international requirements including ICAO SARPs
6. All cases involving the granting of exemptions shall be fully documented and the final outcome shall be published and recorded as appropriate.

*Note: 'Exemptions' also includes exceptions, deviations, alleviations, concessions and prolonged extensions or attachment of conditions.*

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# PROCEDURES FOR GRANTING EXEMPTION

## 1. INTRODUCTION

A certificate/license holder (air operator, maintenance organization, training organization, aerodrome operator and any other approval/certificate/license holder) of Civil Aviation Authority of Nepal are expected to comply with the provisions made on Civil Aviation Requirements that include the SARPs of Annexes to the Convention of International Civil Aviation enforced under the rule 82 of Civil Aviation Regulations 2058 B S (2002 AD) and applicable amendments thereto. There may be some circumstances where usually, due to unexpected temporary conditions or constraints an operator, a licence or certificate holder or an authentic service provider may not be able to comply with established requirement and may request an exemption to such requirement as provided for in Rule 82 (a) of Civil Aviation Regulations 2058 B S (2002 AD), and Rule 35 of Airport Certificate Regulation 2061 (2004) which have made provision to issue exemption in a condition that equivalent level of safety is maintained at all times.

The procedures described herein provide guidelines for use by CAAN inspectors when processing applications for exemptions. This manual includes the processes to be used for processing and granting of applications using a consistent and standardized method which ensures that exemptions from regulatory requirements, when granted, do not result in safety being compromised.

## 2. PURPOSE

The purpose of this Manual is to harmonize the procedures for recommendation or issuance of exemption in various activities of civil aviation operations ensuring that an equivalent level of safety can be achieved. Promulgation of these procedures does not mean to avoid or ease the compliances to the provision of Requirements for convenience. It should be noted that granting exemption must be serving public interest and be granted only for a limited period of time. Exemptions may be granted subject to specific conditions or restrictions as deemed appropriate by CAAN to ensure an equivalent level of safety.

The manual aims to grant exemptions to:

- i. Certificate/license holder (air operator, maintenance organization, training organization, and any other approval/certificate/license holder) that do not conform to all Standard and Recommended Practices (SARPs) contained in Flight Operation Requirements (FOR), Air Operator Certificate Requirements (AOCR), Nepalese Civil Airworthiness Requirements (NCAR), Personnel Licensing Requirements (PELR), Nepalese Flying School Requirements (NFSR), Dangerous Goods Handling Requirements (DGHR), Civil Aviation Requirements for Safety Management (CAR 19) and relevant requirements enforced under the rule 82 of Civil Aviation Regulations 2058 B S (2002 AD) and applicable amendments thereto.



- ii. Certified Aerodromes that do not conform to all SARPs contained in CAR 14, Part 1 and Civil Aviation Requirements for Safety Management (CAR 19) enforced under the rule 82 of Civil Aviation Regulations 2058 B S (2002 AD) and Rule 42 of Airport Certificate Regulation 2061 (2004) applicable amendments thereto.
- iii. ANS providers that do not conform to all SARPs contained in Personnel Licensing Requirements (PELR), Civil Aviation Requirements for Rules of the Air (CAR 2), Civil Aviation Requirements for Meteorological Service for International Air Navigation (CAR 3), Civil Aviation Requirements for Aeronautical Chart (CAR 4), Civil Aviation Requirements for Units of Measurement to be used in Air and Ground Operations (CAR 5), Civil Aviation Requirements for Aeronautical Communications (CAR 10), Civil Aviation Requirements for Air Traffic Services (CAR 11), Civil Aviation Requirements for Search and Rescue (CAR 12), Civil Aviation Requirements for Aeronautical Information Service (CAR 15) and Civil Aviation Requirements for Safety Management (CAR 19) enforced under the rule 82 of Civil Aviation Regulations 2058 B S (2002 AD) applicable amendments thereto.

Moreover, the scope may extend to exemptions of long-term nature or constraints related to aerodrome, aircraft and airspace such as design, manufacture, and operating requirements.

### **3. SAFETY CONSIDERATIONS**

An applicant submitting a request for exemption, must submit evidence that measures will be implemented to ensure that an equivalent level of safety will be maintained throughout the entire exemption validity period. The required evidence shall consist of detailed safety risk analysis, adequate prevention and mitigation measures or other element deemed necessary by CAAN.

### **4. PROCESSES FOR GRANTING EXEMPTIONS**

#### **Step 1: Application and initial evaluation**

- i) An application for an exemption from Civil Aviation Requirements shall be submitted to the concerned Safety Department/Division using the form as prescribed in Appendix B- Part I and all relevant information shall be provided accordingly. The application shall be signed by the individual or approved post holders or equivalent as may be the case. The application shall be supported with adequate justification for requesting an exemption, safety assessment reports, means of prevention and mitigation.

*Note: Concerned Safety Department/Division refers to the Department/Division under “Aviation Safety and Security Regulation Directorate” having the responsibility of oversight of safety performance of respective service providers including but not limited to Air Navigation Services Safety Standards Department (ANSSSD), Flight Safety Standards Department (FSSD), Aerodrome Safety Standards Department (ASSD), Safety Management Division (SMD).*



- ii) An initial evaluation of the application shall be carried out so as to ensure the availability of basic information and to maintain uniformity. The inspector conducting such evaluation of the application shall complete the form as prescribed in Appendix B, Part II, Section 2.1, Step 1.
- iii) If an application does not contain all the required information, or if it is not submitted in the prescribed format, concerned safety department/division shall revert the application back to the applicant with instructions on the relevant action required before the application can be re-submitted.
- iv) If the application contains all the required information and is submitted in the prescribed format, concerned safety department/division shall accept the application for evaluation under Step 2 of Appendix B, Part II, and Section 2.1.
- v) Such All non-compliances shall be corrected and the situations where correction is not possible, either due to physical constraints such as terrain, or other constraints of unique nature, it shall be dealt with by issuance of exemption following the same procedure.

### **Step 2: Evaluation of Risk analysis and mitigation measures**

- i) The inspector shall review all requests for exemption, so as to determine whether the applicant can have other alternative means of compliance available and whether granting the exemption would:
  - Serve public interest;
  - Provide an equivalent level of safety; and
  - Not constitute an unfair competitive advantage to the applicant.

The concerned inspector shall fill up the form as included in Appendix B, Part II, Section 2.2, Step 1.

After completion of the evaluation form, if the concerned safety department/division has determined that granting the exemptions shall have safety implications and/or concerns, a thorough evaluation of the risk analysis carried out by the applicant and the proposed mitigation measures shall be conducted to verify compliance with Appendix 8 of "Procedure Manual for Safety Management Functions as criteria used for risk assessment before granting the exemption. The inspector conducting the evaluation of the applicant's risk analysis and proposed mitigations shall complete the form as prescribed in Appendix B Part II, Section 2.2, Step 2.

- ii) If the results of the analysis show that the identified risks are not tolerable and/or the proposed mitigation measures are inadequate, the application shall be rejected and the applicant shall be notified of the decision.



## EXEMPTION POLICY AND PROCEDURE MANUAL

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The Inspector may, depending on the evaluation of risk analysis, recommend to limit the exemption request to appropriate period in terms of calendar days, cycles, flight hours or any other appropriate unit of time or may limit or impose other conditions, as applicable, Repeated request for the exemption of the same nature by the same applicant may lead to denial of exemption.

- iii) The inspector assigned by the Chief of concerned safety department/division shall, following completions of the Steps 1 to 3 of Appendix B Part-II, make appropriate recommendations by completing the prescribed form of Appendix B Part II Section 2.3 and submit the completed Form to the Department/Division Chief.

The recommendation must be clear regarding the validity of the exemption. The period may be defined, as the case may require, in terms of calendar days, cycles, flight hours or any other appropriate unit of time based on the subject of exemption. If the results of the analysis show that the identified risks are tolerable and/or the proposed mitigation measures adequately address the risks, the application shall proceed to Chief of Concerned Department/Division.

- iv) The Chief of the concerned safety department/division, shall, following receipt of the form, ensure that Appendix B, Part II of the form has been duly completed during the evaluation and approval processes as outlined in this document. The Chief shall thereafter, make appropriate recommendations by completing Appendix B, Part II, Section 2.4 of the Form and submit the form to Deputy Director General of Aviation Safety and Security Regulation Directorate for consideration.

Deputy Director General of Aviation Safety and Security Regulation Directorate shall forward the exemption/concession legal section as per Step 3 Appendix B, Part II, Section 2.5 CAAN Legal Section for legal evaluation.

- v) Where the applicant has satisfactorily demonstrated that the risks are tolerable and/or the proposed mitigation measures are adequate, legal evaluation of the application shall be undertaken. The Legal officer conducting legal evaluation shall complete the prescribed form as mentioned in Appendix B Part-II, Section 2.5, Step 3.
- vi) Where there are legal grounds to reject the application, the application shall be rejected and the applicant shall be notified giving reasons for the rejection.
- vii) Where the results of the legal evaluation show that by granting the exemption, there shall be no legal implications to either the CAAN or to the State, a recommendation shall be given for the exemption to be granted.

After satisfactory evaluation from legal section and its recommendation to grant extension, the legal section shall submit the Form to the Deputy Director General of Aviation Safety and Security Regulation Directorate for consideration.



Deputy Director General of Aviation Safety and Security Regulation Directorate shall recommend Director General CAAN for decision regarding exemption.

### **5. GRANT/REFUSAL OF AN APPLICATION FOR EXEMPTION**

The Director General shall grant an exemption following the successful completion of Steps 1 to 3 of Appendix B based on the recommendations received. The Director General shall complete and sign Appendix B, Part II, Section 2.7 of the prescribed form accordingly. Where the application has been denied, the applicant shall be informed giving reasons for the denial.

It is the responsibility of the exemption receiver to ensure the continuity of the mitigation of risks identified and managed to the acceptable level throughout the period within which the exemption has been granted.

### **6. NOTIFICATION OF EXEMPTION**

When an exemption is granted, the applicant will be notified in writing of the exemption, the applicable conditions and the validity period.

In case if any need arises or the nature of exemption so demands, the exemption receivers shall periodically, based on duration of exemption, conduct review of exemptions received to ascertain that the mitigation measures are in place and effective.

In case of long term exemption such as non-compliance the review should also consider whether the non-compliance could be removed from CAAN findings.

The outcomes of all types of review related to received exemptions are required to be documented in the report to be submitted to the concerned department/division for consideration.

### **7. PUBLISHING OF THE EXEMPTION**

Where the proposed exemption is granted, the Director General shall ensure the exemption, is published as appropriate through an Aeronautical Information Circular or other appropriate documents or where applicable, endorse such exemption in the service provider's certificate or approval. The exemption so granted shall also be published in CAAN website.

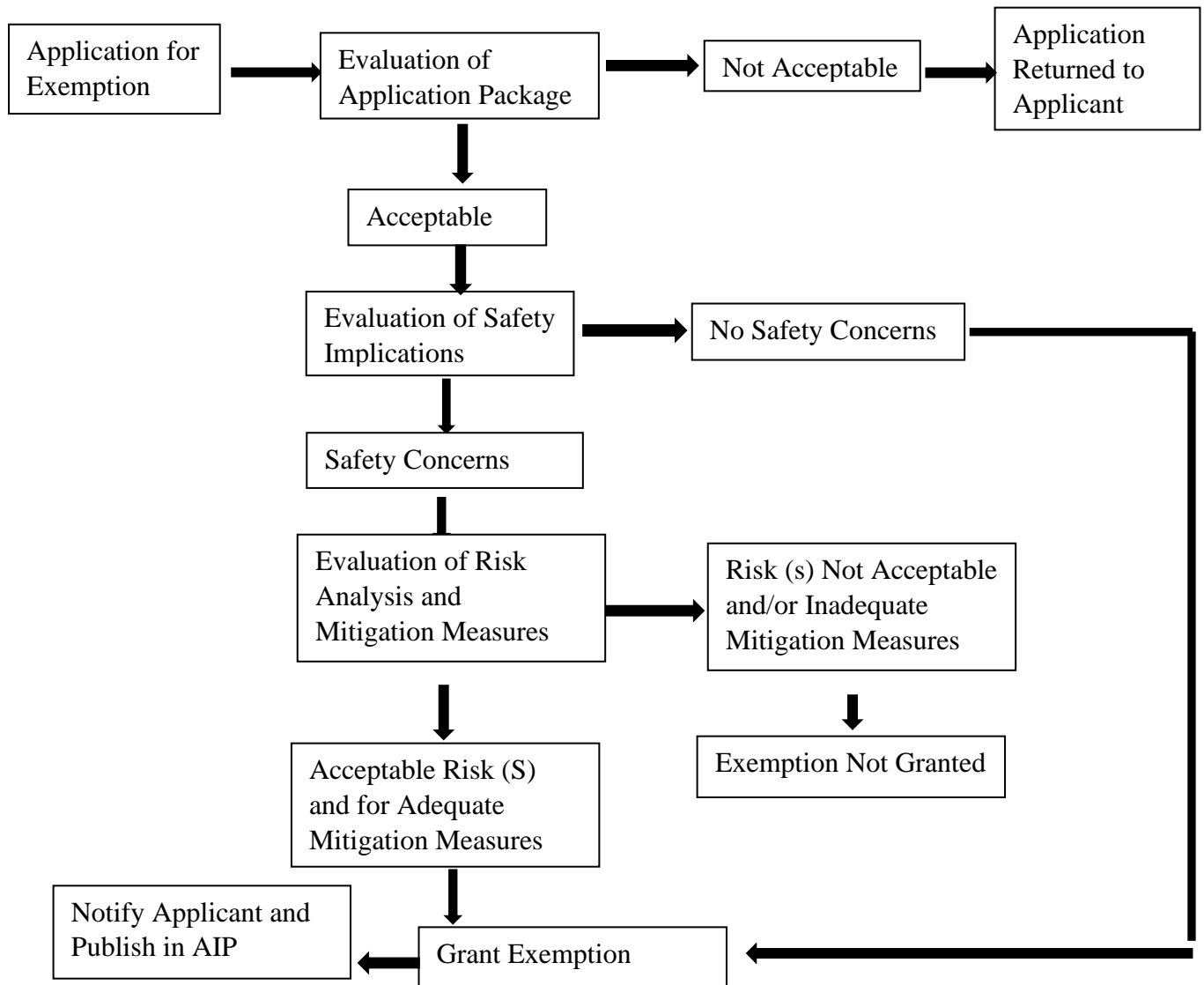
CAAN shall notify the concerned stakeholders about the exemption so granted where applicable.

### **8. RECORDING OF EXEMPTION**

Granted exemptions need to be recorded in the appropriate service provider file. The list of exemptions issued shall be recorded by CAAN to enable review the pertinence and adequacy of regulatory provisions which are the object of repeated exemption requests.

## APPENDIX A-FLOW CHART FOR APPROVAL OF EXEMPTIONS

The flow chart describing the evaluation and approval process is described below





## APPENDIX B- FORM FOR APPLICATION, EVALUATION AND APPROVAL OF EXEMPTION

### PART I (TO BE COMPLETED BY THE APPLICANT)

#### 1. PARTICULARS OF THE APPLICANT

1.1 Request made by: .....
1.2 Organization/Service Provider: .....
1.3 Telephone number: .....
1.4 Approval Number/ License number of Organization/Service Provider: .....
1.5 E-mail address: .....

#### 2. DETAILS ON REQUESTED EXEMPTION

Details of Regulatory requirement (Requirement/Manual)		Details of Request (include reasons for the request and duration of the Exemption)	Safety Risk Assessment Done (Review Attachment)		Alternative means of Compliance / mitigations Proposed (Review Attachment)	
Reference No	Details of Regulation		Yes	No	Yes	No

#### 3. SAFETY FACTORS CONSIDERED (if any),

1.
2.
3.

#### 4. DETAILS OF PROPOSED ALTERNATIVE MEANS OF COMPLIANCE/ MITIGATIONS

1.
2.
3.

#### 5. DOCUMENTS ATTACHED

1.
2.
3.

#### 6. PREVIOUS EXEMPTIONS

<ul style="list-style-type: none"><li>Number of similar exemption obtained:<ul style="list-style-type: none"><li>a. in past 12 months .....</li><li>b. total exemptions obtained till date .....</li></ul></li></ul>
--



## EXEMPTION POLICY AND PROCEDURE MANUAL

- Number of other exemption obtained:
  - a. in past 12 months .....
  - b. total exemptions obtained till date.....

### 7. DECLARATION BY THE APPLICANT

I hereby certify that the forgoing information is correct in every respect and no relevant information has been withheld. I also undertake the responsibility for annually reviewing the conditions or mitigation measures and any other resultant non-compliance in particular when any significant changes in the aerodrome activity and development are proposed.

.....  
.....

**Signature:** .....

**Name:** .....

**Position:** .....

**Date:** .....

**Note:**

- a) It is an offence to make any false representation with the intent to deceive, for the purpose of procuring exemption and enforcement action shall be taken for such offence as per procedure.
- b) Application not completed in all respect and not accompanied with relevant enclosures will be rejected.



## EXEMPTION POLICY AND PROCEDURE MANUAL

### PART II: (FOR USE BY THE CONCERNED DEPARTMENT/DIVISION)

#### 1. TO BE COMPLETED BY THE CHIEF OF DEPARTMENT/DIVISION

Received by (Name):	Signature:	Date:
Inspector assigned for assessment:		
Remarks by the Chief (concerned Department/Division):		

#### 2. EXEMPTION APPROVAL CHECKLIST (TO BE COMPLETED BY EVALUATING OFFICERS)

##### 2.1 STEP 1: INITIAL EVALUATION OF APPLICATION

*(To be completed by inspector assigned by the Chief of Concerned Department/ Division)*

S/N	Compliance Question	Satisfactory	Not Satisfactory	Not Applicable	Remarks
1.	Has the application been submitted using the prescribed Form?				
2.	Has the applicant completed all the relevant Sections in Part A?				
3.	Has the applicant specified the specific regulation/ standards from which the exemptions is sought?				
4.	Has the applicant clearly specified the details of the exemption sought?				
5.	Do the details include the reasons why the exemption is sought?				
6.	Do the details include the duration of the exemption?				
7.	Has the applicant clearly indicated the factors considered in making request				
8.	Do the factors include safety considerations?				
9.	Has the applicant proposed alternative means of compliance with regulatory requirements including mitigation measures to ensure safety is not compromised?				
10.	Has the applicant submitted all relevant				





## EXEMPTION POLICY AND PROCEDURE MANUAL

	documents to support the application?				
11.	Is the application for exemption submitted as part of an application of an approval?				
12.	Are there any known safety concerns that are yet to be addressed by the applicant?				

***Recommendation:***

.....  
.....  
.....  
.....

***Evaluated by,***

***Name:***

***Designation:***

***Date:***

***Signature:***



## EXEMPTION POLICY AND PROCEDURE MANUAL

### 2.2 STEP 2: EVALUATION OF RISK ASSESSMENT AND PROPOSED MITIGATIONS

*(To be completed by the assigned inspector)*

#### Checklist for Evaluation of Safety Risk Management (SRM)

This checklist has been prepared in accordance with the process mentioned in procedure manual for Safety Management Functions, 2022, Appendix-6.		
S.No.	Particulars	Remarks
1.	All possible safety hazards of the change have been appropriately identified.	Yes No
2.	The safety risk of each hazard has been mitigated individually.	Yes No
3.	A defined process has been used to determine the probability and severity of consequence of the identified hazards to ensure the risk is appropriately analyzed and assessed.	Yes No
4.	A defined process has been used to determine the robustness of the controls and mitigation measures to ensure the applied controls and mitigation measures are effective.	Yes No
5.	Timeline and allocation of responsibility have been Clearly mentioned to implement and follow up the controls and mitigation measures.	Yes No
6.	Key stakeholders of the change are appropriately identified and involved in the Management of Change process.	Yes No
7.	The implementation and follow up process of controls and mitigation measures are clearly mentioned.	Yes No
8.	The resultant risk has been accepted by the appropriate level of management.	Yes No
9.	All the measures and barriers applied for the management of risk are ensured for effective implementation before introduction of the change.	Yes No

Name: .....

Date: ..... Signature: .....



## EXEMPTION POLICY AND PROCEDURE MANUAL

### 2.3 RECOMMENDATIONS BY ASSIGNED INSPECTOR

.....
.....
.....

### 2.4 RECOMMENDATION BY CHIEF OF CONCERNED DEPARTMENT/DIVISION

.....
.....
.....

### 2.5 STEP 3: LEGAL EVALUATION

*(To be completed by the Legal Office)*

S/N	Compliance Question	Satisfactory	Not Satisfactory	Not Applicable	Remarks
1.	If Granted, shall this exemption infringe on any other CAAN regulation requirements?				
2.	If Granted, shall this exemption infringe on the provisions of any other laws of the state?				
3.	Are there any other legal implications relative to this application?				

**Recommendation:**

.....

.....

.....

.....

**Name:** \_\_\_\_\_ **Designation:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

### 2.6 RECOMMENDATION BY DEPUTY DIRECTOR GENERAL, AVIATION SAFETY AND SECURITY REGULATION DIRECTORATE

.....
.....
.....
.....



## 2.7 EXEMPTION APPROVAL/REJECTION BY THE DIRECTOR GENERAL

Exemption Granted/ Denied: .....

Name: .....

Designation: .....

Signature: .....

Date Granted: .....

Expiry (Hrs./ Cycle/ Date) : .....